

**10-144 C.M.R. Chapter 101, MaineCare Benefits Manual
Chapters II, Section 60, Medical Supplies and Durable Medical Equipment**

Summary of Rate Forum Comments and the Department's Responses

The Department of Health and Human Services held a rate forum on December 1, 2022. Written and verbal comments were accepted through December 15, 2022. Comments were received from the following people:

Table of Commenters

1. Darby Shelton, Prism Medical Products
2. Diane Racicot, Vice President, Payer Relations East Region, National Seating & Mobility, Inc.
3. Cathy Hamilton, President and CEO, Home Medical Equipment and Services Association of New England
4. Kim Cook, Director of State Government Affairs & Policy, Numotion
5. Mickae E. Lee, Associate Director, National Coalition for Assistive and Rehab Technology
6. Rachel Black, ATP/COTA/L, Rehabilitation Equipment Associates, Inc.
7. Samantha Caruso, Billing Manager, Home Care Specialties
8. Sean Andrews, Director of Financial Operations at Bedard Pharmacy

Summary of Comments and Responses

1. **Comment:** Will MaineCare continue to use the same reimbursement methodology for codes that are manually priced?

Response: Yes, MaineCare will reimburse manually priced, miscellaneous, and “not otherwise classified” codes at manufacturer’s suggested retail price (MSRP) minus 20% or invoice cost plus 30% if no MSRP is listed.

2. **Comment:** What rental periods will MaineCare use?

Response: Except for oxygen, rental periods shall follow Medicare rental periods: capped rental items (category code: CR) shall have a 13-month rental period; inexpensive and routinely purchased items (category code: IN) shall have a ten-month rental period; enteral and parenteral items (category code: EP) shall have a 15-month rental period; and items requiring frequent and substantial servicing (category code: FS) shall be rented until no longer medically necessary. DME covered by the Department that is not covered by Medicare (category code: MC) shall have a 12-month rental period. Providers may bill for the appropriate oxygen equipment codes that include oxygen contents for as long as it is medically necessary. Providers do not need to bill for “content only” oxygen codes after thirty-six (36) months of renting oxygen equipment, as is required by Medicare.

3. **Comment:** Will there be purchase options for nebulizers and code E1161?

Response: Yes, there will be purchase options for nebulizers and code E1161.

4. **Comment:** In Phase II of the reimbursement methodology changes for Section 60, what state Medicaid agencies will MaineCare use when establishing rates for the state Medicaid average benchmark?

Response: MaineCare may choose or develop a new reimbursement methodology for non-Medicare covered codes in Phase II that is not based on a state Medicaid average. However, in making this determination, MaineCare will consider all fifty states' Medicaid agencies' rates. Additionally, MaineCare will assess how it defines codes in comparison to other Medicaid agencies to identify whether other agencies' rates for items and services are appropriate to use to set MaineCare rates.

5. Comment: Can MaineCare clarify the rental and purchase options?

Response: For capped rentals under the new reimbursement methodology, the overall payout for renting an item will be greater than the total payout for purchasing the item. To explain, Medicare reimburses the first three months of a capped rental at a higher rate than the remaining ten months, but MaineCare will reimburse the higher first month rental rate for each month of the rental period. This means that the total payout from MaineCare for renting an item will be more than Medicare's total payout. However, this also means that MaineCare's purchase option will be less than the total payout for renting the item. To comply with Section 1903(i)(27) of the Social Security Act (the Upper Payment Limit (UPL) requirement), MaineCare cannot multiply the first month rental rate by 13 (the number of rental months) to calculate the purchase rate so that the total pay outs are equal. MaineCare's purchase option must equal Medicare's purchase option (100% of the purchase cost) to comply with the UPL. This is illustrated in the following slide where the MaineCare rental payout is \$3,229 more than the purchase payout:

K0835 Purchase/Rental Example

- K0835 – Power wheelchair, group 2, single power option
 - No explicit purchase option on the DMEPOS fee schedule
 - RR rate is 15% of the total purchase amount and is paid for each of the first three months, then 6% of the total purchase amount is paid for each of the remaining ten months

Purchase Calculation			Medicare Rental Payout		
	Non-rural	Rural		Non-rural	Rural
Medicare RR Rate	\$443.96	\$509.89	Months 1-3 (15%)	\$443.96	\$509.89
Calculation	\$443.96 / .15	\$509.89 / .15	Months 4-13 (6%)	\$177.58	\$203.96
MaineCare/Medicare Purchase Rate	\$2959.73	\$3399.27	Total	\$3,107.68	\$3,569.27
			MaineCare Rental Payout		
			Months 1-13	\$443.96	\$509.89
			Total	\$5,771.48	\$6,628.57

Maine Department of Health and Human Services

7

6. Comment: When setting a rate based on a state Medicaid average, does MaineCare factor in when other Medicaid agencies established their rates?

Response: Currently, when MaineCare sets a rate based on a state Medicaid average rate, it does not assess when each other Medicaid agency established its rates.

7. Comment: State Medicaid agencies may not frequently adjust their rates to the recent increases in prices, surcharges, and shipping costs. How often will MaineCare examine the state Medicaid agency rates it uses to set its own rates?

Responses: MaineCare will evaluate and choose a reimbursement methodology for non-Medicare covered items in Phase II. If a state Medicaid average is chosen, MaineCare will also choose, at that time, how it evaluates rates and the period at which it will update rates.

8. Comment: What is the percentage used for the cost-of-living adjustment (COLA)?

Response: The COLA that MaineCare will apply to non-Medicare covered codes, on January 1, 2023, is 6.04% and is based on the Consumer Price Index for All Urban Consumers for medical equipment and supplies (CUUR0000SEMG).

9. Comment: Will MaineCare calculate the new rates using the 2023 first quarter DMEPOS fee schedule, as opposed to the latest 2022 fee schedule?

Response: Yes, MaineCare calculated the new rates using the 2023 first quarter DMEPOS fee schedule.

10. Comment: Multiple commenters commented that DME providers are experiencing staffing shortages and increases in labor, product, fuel, and shipping costs, as well as new surcharges. In addition, some providers are choosing to not cover certain products, and provider consolidation is also occurring which further reduces product offerings. One commenter commented that there is an assistive technology professional (ATP) shortage in Maine, and there are also no ATPs north or east of Bangor. Some commenters previously suggested that MaineCare should provide reimbursement for ATP evaluations and associated services.

Response: MaineCare understands that DME providers are experiencing increased costs and that some are choosing to discontinue coverage of certain products. However, the draft rates and reimbursement methodology changes will produce an overall increase in reimbursement. In addition, these reimbursement changes are also occurring to comply with the Upper Payment Limit, which prevents MaineCare from reimbursing items at a higher amount, in aggregate, than Medicare would. For this reason, MaineCare cannot reimburse more than 100% of Medicare rates for codes subject to the UPL. This also means that MaineCare can no longer set rates for items solely based on Medicare's higher rural rates. To comply with the UPL, MaineCare must set rates based on Medicare's rural and non-rural rates and pay the appropriate rate based on the member's locality.

In addition, MaineCare understands that there is a shortage of ATPs in Maine. However, MaineCare is implementing reimbursement changes to align with Medicare, and Medicare does not reimburse for ATP evaluations and associated services. Thus, MaineCare will not add reimbursement for ATP services at this time.

11. Comment: Multiple providers expressed concern that some of the draft rates for complex rehabilitative technology (CRT) and other items are lower than current rates. One commenter noted that adequate access to CRT allows individuals with disabilities to remain in their homes and cuts costs by reducing medical complications, clinical interventions, hospitalizations, etc. Some commenters suggested that MaineCare should only use Medicare's rural rates to reimburse for CRT or slowly phase in the new rates over time.

Response: Please see the response to comment 10 for an explanation on why MaineCare must use rural and non-rural rates. Additionally, MaineCare previously calculated the purchase rates for CRT by multiplying the Medicare rural rate by twelve (the number of months in a rental period prior to January 1, 2023). To comply with the UPL, under the new methodology, the rural

and non-rural purchase rates will reflect what Medicare considers to be 100% of the purchase cost of the item, which will decrease purchase rates. However, the total payout for renting an item will be greater than the total payout for purchasing the item. Please see the response to comment 9 for an in-depth explanation on how MaineCare will calculate purchase rates and why there is a difference between reimbursement for purchasing and renting an item.

- 12. Comment:** While there is a higher overall payout for renting complex rehabilitative equipment, it is not appropriate to rent this equipment because it is customized with uniquely configured components.

Response: The Department is electing, based on feedback from providers and in alignment with Medicare, to offer rental options for complex rehabilitative equipment. Providers may still choose to request purchase options.